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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 10/532,899   | 04/27/2005  | James H Flater         | H01.01 P-375A       | 2255             |
| 277 7590 07/31/2008<br>PRICE HENEVELD COOPER DEWITT & LITTON, LLP<br>695 KENMOOR, S.E.<br>P O BOX 2567<br>GRAND RAPIDS, MI 49501 |             |                        |                     |                  |
| EXAMINER<br>YEAGLEY, DANIEL S  |             |                        |                     |                  |
| ART UNIT<br>3611   |             | PAPER NUMBER           |                     |                  |
| MAIL DATE<br>07/31/2008  |             | DELIVERY MODE<br>PAPER |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/532,899

**Applicant(s)**

FLATER ET AL.

**Examiner**

Daniel Yeagley

**Art Unit**

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) 4-18 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-850)  
Paper No(s)/Mail Date 4/27/05, 10/24/07, 7/2/08  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 4 – 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/2/08. However, because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

2. The drawings are objected to because applicant indicated that figure 2 was amended in a Preliminary Amendment filed 4/27/05 to include a replacement sheet and an annotated sheet showing previously omitted element 74. However no such replacement sheets were found.
3. The drawings are objected to because of the following noticed errors. Applicant is requested to thoroughly review all the drawings for any additional misnumbered or missing numerals.
- a. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:
    - i. Figure 2 and Figure 3, numeral “40” are incorrectly depicting ear --38--.
    - ii. Figure 5, the reference character “12” has been used to designate both the hitch plate and a portion of plane shelf 44.

iii. Figure 6 and Figure 8 the reference character "158" has been used to designate both the hook jaw aperture for the cam portion of hook jaw pin 58 and an aperture in the top plate 12 for adjustment pin 132.

(1) Note change the numerals depicting the adjustment pin aperture in figure 6 and 8 to numeral 132A. (see specification correction below).

iv. Figure 10, reference characters "190" and "lowermost numeral 192" have both been used to designate a "first portion" of locking washer 188.

v. Figure 10, reference characters "194" and "leftmost numeral 192" have both been used to designate an unknown element adjacent bolt 184.

b. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because

vi. they include the following reference character(s) not mentioned in the description:

(2) numeral "194" of figure 10 was not found in the specification.

(3) numeral "52" of figure 4, was not found in the specification.

vii. they do not include the following reference sign(s) mentioned in the description:

(4) numeral "74", cited on page 7 was not found in the drawings.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The disclosure is objected to because of the following informalities:

Applicant is requested to thoroughly review the specification for any additional misnumbered terms or incorrect terms.

Page 6, line 23, the term “rearward **edge** 30” should be changed to --rearward **rib** 30--.

Page 6, line 25, the term “locking jaw pin aperture” should be changed to

--locking jaw pin aperture **52**--.

Page 7, line 1, the term “**pivot** pin 54” should be changed to --**locking jaw** pin 54--.

Page 7, line 5, the term “concave recess 66” should be changed to

--concave recess (king pin lock surface) 66--.

Page 7, line 11-12, the phrase “includes **a** concave king pin lock surface 66” should be changed back to --includes **the** concave king pin lock surface 66--.

Page 7, line 18, the phrase “the recess 74” should be changed to  
--the hook-receiving recess 76--.

Page 8, line 10, the term “pin 58” should be changed to --hook jaw pin 58--.

Page 9, line 9, the term “an aperture 158” should be changed to  
--an adjustment pin aperture 132A--.

Appropriate corrections are required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Walther et al 2,072,661.

Walther shows a top hitch plate 7 for a fifth wheel hitch that comprises a bottom surface opposite a top surface 8, a convex shaped forward end and a rearward end that is bifurcated into a first and second portion defining a throat therebetween for receiving a kingpin, and includes a first laterally extending structural support rib 12a located between the forward end and the rearward end of the top hitch plate with a second laterally extending structural support rib 12a located between the first support rib and the rearward end of the top hitch plate which extend downwardly from the bottom surface and includes a pair of ears (inner rib portion 13) that extend downwardly from the bottom surface and are extending longitudinally between the first

and second support ribs; as best shown in figure 1, wherein each ear includes an aperture extending therethrough to receive a pivot pin 14 therein to pivotably support the top hitch plate on a supporting structure 16, and wherein each of the ears includes at least one end that is substantially offset from at least a selected one of the first and second support rib and defines a gap therebetween; as shown in figure 1 and is such that each ear defines opposite ends that are substantially offset from both the first rib and the second rib and includes a pair of outer walls 13 (longitudinal flange portion between flange portion 12 that include an aperture extending therethrough that cooperate with the ears to pivotably support the top hitch plate on the supporting structure.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vaugoyeau '205, Fontaine '628, Kayler et al '818 and Stephen '117 show a top hitch plate having a convex shape forward end and a bifurcated rearward end defining a throat that includes a first and second laterally extending structural support rib with a pair of ears extending longitudinally between the first and second support ribs that is substantially offset from at least a selected one of the first and second support rib and defines a gap therebetween.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)272-6655. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D.Y.

/Joanne Silberman/  
Primary Examiner, Art Unit 3611